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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/971,254	11/17/97	BERLOWITZ	P

IM12/0621

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EXAMINER
MEDLEY, M

ART UNIT	PAPER NUMBER
1714	13

DATE MAILED: 06/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
08/971,254	BERLOWITZ et al
Examiner	**Group Art Unit**
MEDLEY	1714

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Peri d f r Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE Three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

☒ Responsive to communication(s) filed on 4/19/00 and 4/21/00.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-2, 4-5, 8, 10 and 12-19 is/are pending in the application.

Of the above claim(s)_____ is/are withdrawn from consideration.

☐ Claim(s)_____ is/are allowed.

☒ Claim(s) 1-2, 4-5, 8, 10 and 12-19 is/are rejected.

☐ Claim(s)_____ is/are objected to.

☐ Claim(s)_____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The proposed drawing correction, filed on_____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on_____ is/are objected to by the Examiner.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 11 9(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number)_____.

☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received:_____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s)._____

☐ Interview Summary, PTO-413

☒ Notice of References Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other_____

Office Action Summary

Applicants are required to update the status of the parent application mentioned on page 1 of the instant application.

The Examiner acknowledge receipt of 21 pages of PTO-1449 dated December 8, 1999, but were unable to locate or find any of the documents cited on the said 21 pages of 1449.

It has come to the attention of the Examiner that there are numerous related patents, and pending applications that have been filed with the Office, but were not cited on the PTO -1449 Forms. Applicants are required to make of record any patented and pending U.S. application that have the same, over lapping or similar subject matter as the claims of the intent present U.S. application 08/971,254 and to indicates the lines of demarcation of each patent and pending U.S. application. Claims of the same subject matter and having a different use are considered to be of the same or obvious scope.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim, all, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim, all, of U.S. Patent No. 5,766274. Although the

conflicting claims are not identical, they are not patentably distinct from each other because the claimed distillate fraction, blended fuel and process steps comprises obvious similar closely related components and process steps which are obvious, even though the use for a specific fuel may be different.

Claim, all, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim, all, of U.S. Patent No. 5,689,031. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed distillate fraction, blended fuel and process steps comprises the same or similar components and process steps wherein the ratios are different, but rendering the claims obvious.

Claim, all, are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim all of copending Application No. 09/464,179. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed distillate, blended fuel and process steps comprises the same or similar components and process steps of related patent application 09/464,179 which are obvious, even those the ratios are different.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim, all, are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim all of copending Application No. 08/544,343. Although the conflicting claims are not identical, they are not patentably distinct

from each other because the claimed distillate, blended fuel and process steps comprises the same or similar components and process steps of related application 08/544,343 even those the ratio of some components are different.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim, all, are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim all of copending Application No. 09/098,231. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed distillate, blended fuel and process steps comprises similar components and process steps of related application 09/098,231 which are obvious, even those the ratios are different.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim, all, are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim all of copending Application No. 09/135,850. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed distillate, blended fuel and process steps comprises similar components and process similar components and process steps of related application 09/135,850 which are obvious, even those the ratios are different.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim, all, are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim all of copending Application No. 09/138,130. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed distillate, blended fuel and process steps comprises similar components and process steps of related application 09/138,130, which are obvious, even those the ratios are different.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The claims appear to be allowable over the prior art of record.

The references cited but not applied further teach fuel compositions comprising additives of the same nature as claimed by Applicants.

Any inquiry concerning this communication should be directed to Margaret B. Medley at telephone number (703) 308-2518.

Medley/mm

May 24, 2000

MARGARET MEDLEY
PRIMARY EXAMINER
GROUP 1100